
A BILL FOR AN ACT

RELATING TO FILM AND DIGITAL MEDIA INDUSTRY DEVELOPMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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PART I

SECTION 1. The legislature finds that 2010 was the first \$400,000,000 year in direct spending in film and television production in Hawaii and also marked the growth of locally-produced Tetris and massive multiplayer platform Avatar/Blue Mars, and international recognition for Hawaii's human capital with breakout talent ranging from Andy South in fashion, Bruno Mars in music, "The Descendants" author Kauai Hemmings in writing, and Ty Sanga, the academy for creative media graduate, whose "Stones" premiered as the first Hawaiian language film at the 2011 Sundance Film Festival. Also in 2011, CBS Network's remake of the iconic "Hawaii Five-O" series averaged over fourteen million viewers for each episode, represented the season's highest-rated television series among adults 18-49, and was the most digitally recorded series on the air. In 2012, director Alexander Payne's critically-acclaimed film, "The Descendants" has been nominated for best picture, director and



1 actor awards and all of its soundtrack (forty songs) was
2 composed and performed by notable Hawaiian entertainers.

3 The legislature further finds that the success of the Act
4 88, Session Laws of Hawaii 2006, production credits in
5 generating additional production work within the State indicates
6 that Hawaii could have a billion dollar industry through the
7 right combination of responsible incentives, dedicated
8 infrastructure, broader development of Hawaii's intellectual
9 property workforce, and a global perspective. The right
10 incentives also represent an investment that bolsters the local
11 economy and provides an international marketing advantage for
12 the State's number one industry, tourism.

13 The purpose of this Act is to capitalize on the convergence
14 of Hawaii's film, television, entertainment, digital media, and
15 music industries by pursuing long-term growth through a
16 comprehensive strategy to grow high-quality local jobs in these
17 industries. The incentives in this Act are intended to
18 implement the strategy by encouraging the use of Hawaii as a
19 site for filming, for the digital production of films, and to
20 develop and sustain the workforce and infrastructure for
21 Hawaii's film, television, entertainment, digital media, and
22 music industries.



PART II

SECTION 2. The purpose of this part is to:

- (1) Establish the Hawaii film and digital media special fund; and
- (2) Repeal part IX, chapter 201, Hawaii Revised Statutes, relating to Hawaii television and film development.

SECTION 3. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§201- Hawaii film and digital media special fund. (a)

There is established in the state treasury the Hawaii film and digital media special fund into which shall be deposited:

- (1) Appropriations by the legislature;
- (2) Donations and contributions made by private individuals or organizations for deposit into the fund;
- (3) Grants provided by governmental agencies or any other source;
- (4) Fees collected pursuant to section 235-17; and
- (5) Beginning July 1, 2013, quarterly payments in an amount equal to two per cent of the total aggregate wages and salaries paid to legal residents of this



1 State pursuant to the requirements of sections 235-17
2 and 235- .

3 (b) The fund shall be used for:

4 (1) The operations of the film and digital media program;

5 (2) Specific development projects, including but not
6 limited to grants to filmmakers and film festivals,
7 loans, and other programs or activities to stimulate
8 growth of the film and digital media industry; and

9 (3) Internships, apprenticeships, and training programs
10 that expand the skill sets of Hawaii's workforce and
11 the film and digital media industry."

12 SECTION 4. Chapter 201, part IX, Hawaii Revised Statutes,
13 is repealed.

14 PART III

15 SECTION 5. The purpose of this part is to:

16 (1) Amend the motion picture, digital media, and film
17 production income tax credit percentages and the total
18 tax credit cap to unspecified amounts; and

19 (2) Strengthen incentives for hiring greater numbers of
20 residents and to support training and employment
21 opportunities for those residents.



1 SECTION 6. Section 235-17, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§235-17 Motion picture, digital media, and film
4 production income tax credit. (a) Any law to the contrary
5 notwithstanding, there shall be allowed to each taxpayer subject
6 to the taxes imposed by this chapter, an income tax credit which
7 shall be deductible from the taxpayer's net income tax
8 liability, if any, imposed by this chapter for the taxable year
9 in which the credit is properly claimed. The amount of the
10 credit shall be:

11 (1) [Fifteen] _____ per cent of the qualified
12 [~~production costs~~] expenditures incurred by a
13 qualified production in any county of the State with a
14 population of over seven hundred thousand; or

15 (2) [Twenty] _____ per cent of the qualified
16 [~~production costs~~] expenditures incurred by a
17 qualified production in any county of the State with a
18 population of seven hundred thousand or less.

19 A qualified production occurring in more than one county may
20 prorate its expenditures based upon the amounts spent in each
21 county, if the population bases differ enough to change the
22 percentage of tax credit.



1 In the case of a partnership, S corporation, estate, or
2 trust, the tax credit allowable is for qualified [~~production~~
3 ~~costs~~] expenditures incurred by the entity for the taxable year.
4 The cost upon which the tax credit is computed shall be
5 determined at the entity level. Distribution and share of
6 credit shall be determined by rule. Notwithstanding any
7 provision to the contrary, the credit may be recovered directly
8 by the entity that incurred the qualified expenditures.

9 If a deduction is taken under section 179 (with respect to
10 election to expense depreciable business assets) of the Internal
11 Revenue Code of 1986, as amended, no tax credit shall be allowed
12 for those costs for which the deduction is taken.

13 The basis for eligible property for depreciation of
14 accelerated cost recovery system purposes for state income taxes
15 shall be reduced by the amount of credit allowable and claimed.

16 (b) The credit allowed under this section shall be claimed
17 [~~against the net income tax liability for the taxable year. For~~
18 ~~the purposes of this section, "net income tax liability" means~~
19 ~~net income tax liability reduced by all other credits allowed~~
20 ~~under this chapter.~~] after all other tax credits available to
21 the taxpayer have been claimed. A taxpayer eligible to claim a
22 tax credit under this section may assign all or a portion of a



1 tax credit under this section to any assignee. An assignee may
2 subsequently assign a tax credit or any portion of a tax credit
3 assigned under this subsection to one or more assignees. A
4 taxpayer may claim a portion of a tax credit and assign the
5 remaining tax credit amount. A tax credit assignment under this
6 subsection shall be irrevocable. The tax credit assignment
7 under this subsection shall be made on a form prescribed by the
8 department of taxation. A taxpayer claiming a tax credit under
9 this section shall submit a copy of the completed assignment
10 form to the department in the tax year in which the assignment
11 is made and shall attach a copy of the form to the tax return on
12 which the tax credit is claimed.

13 (c) If the tax credit under this section exceeds the
14 taxpayer's income tax liability, the excess of credits over
15 liability shall be refunded to the taxpayer; provided that no
16 refunds or payment on account of the tax credits allowed by this
17 section shall be made for amounts less than \$1. All claims,
18 including any amended claims, for tax credits under this section
19 shall be filed on or before the end of the twelfth month
20 following the close of the taxable year for which the credit may
21 be claimed. Failure to comply with the foregoing provision
22 shall constitute a waiver of the right to claim the credit.



- 1 (d) To qualify for this tax credit, a production shall:
- 2 (1) Meet the definition of a qualified production
- 3 specified in subsection ~~[(1),]~~ (p);
- 4 (2) Have qualified ~~[production costs]~~ expenditures
- 5 totaling at least \$200,000 ~~[,]~~ for a qualified
- 6 production, or \$50,000 for a qualified digital media
- 7 project or qualified independent and emerging media
- 8 project;
- 9 (3) Provide ~~[the State, at a minimum, a shared card, end-~~
- 10 ~~title screen credit, where applicable,]~~ marketing
- 11 materials promoting the State as a tourist destination
- 12 or film and digital media production destination, when
- 13 appropriate, at no cost to the State, which shall, at
- 14 a minimum, include placement of a "Filmed in Hawaii"
- 15 or "Produced in Hawaii" logo in the end credits; and
- 16 (4) Provide evidence ~~[of reasonable efforts to hire local~~
- 17 ~~talent and crew; and~~
- 18 ~~(5) Provide evidence of financial or in-kind contributions~~
- 19 ~~or educational or workforce development efforts, in~~
- 20 ~~partnership with related local industry labor~~
- 21 ~~organizations, educational institutions, or both,~~
- 22 ~~toward the furtherance of the local film and~~



1 ~~television and digital media industries.]~~ that for the
2 first two years of the production credit, at least
3 fifty per cent, and thereafter, at least sixty per
4 cent, of the positions that make up the production
5 cast and below-the-line production crew, or, in the
6 case of digital media projects, at least seventy-five
7 per cent of the positions, are filled by legal
8 residents of this State, whose residency is
9 demonstrated by a valid Hawaii driver's license or
10 other state-issued identification confirming
11 residency, or students enrolled full-time in a film-
12 and-entertainment-related course of study at an
13 institution of higher education in the State.

14 (e) On or after July 1, 2006, no qualified [~~production~~
15 ~~cost~~] expenditure that has been financed by investments for
16 which a credit was claimed by any taxpayer pursuant to section
17 235-110.9 is eligible for credits under this section.

18 (f) To receive the tax credit, the taxpayer shall first
19 prequalify the production for the credit by registering with the
20 department of business, economic development, and tourism during
21 the development or preproduction stage. Failure to comply with



1 this provision may constitute a waiver of the right to claim the
2 credit.

3 (g) The director of taxation shall prepare forms as may be
4 necessary to claim a credit under this section. The director
5 may also require the taxpayer to furnish information to
6 ascertain the validity of the claim for credit made under this
7 section and may adopt rules necessary to effectuate the purposes
8 of this section pursuant to chapter 91.

9 (h) Every taxpayer claiming a tax credit under this
10 section for a qualified production shall, no later than ninety
11 days following the end of each taxable year in which qualified
12 [~~production costs~~] expenditures were expended, submit a written,
13 sworn statement to the department of business, economic
14 development, and tourism, identifying:

- 15 (1) All qualified [~~production costs~~] expenditures as
16 provided by subsection (a), if any, incurred in the
17 previous taxable year;
- 18 (2) The amount of tax credits claimed pursuant to this
19 section, if any, in the previous taxable year; and
- 20 (3) [~~The number of total hires versus the number of local~~
21 hires] An estimate of the full-time equivalent
22 positions for legal residents of this State created by



1 each production, by category (i.e., department), and
2 by county.

3 (i) The department of business, economic development, and
4 tourism shall:

5 (1) Maintain records of the names of the taxpayers and
6 qualified productions thereof claiming the tax credits
7 under subsection (a);

8 (2) Obtain and total the aggregate amounts of all
9 qualified [~~production costs~~] expenditures per
10 qualified production and per qualified production per
11 taxable year; and

12 (3) Provide a letter to the director of taxation
13 specifying the amount of the tax credit per qualified
14 production for each taxable year that a tax credit is
15 claimed and the cumulative amount of the tax credit
16 for all years claimed.

17 Upon each determination required under this subsection, the
18 department of business, economic development, and tourism shall
19 issue a letter to the taxpayer, regarding the qualified
20 production, specifying the qualified [~~production costs~~]
21 expenditures and the tax credit amount qualified for in each
22 taxable year a tax credit is claimed. The taxpayer for each



1 qualified production shall file the letter with the taxpayer's
2 tax return for the qualified production to the department of
3 taxation. Notwithstanding the authority of the department of
4 business, economic development, and tourism under this section,
5 the director of taxation may audit and adjust the tax credit
6 amount to conform to the information filed by the taxpayer.

7 (j) Total tax credits claimed per qualified production
8 shall not exceed [~~\$8,000,000-~~] \$ _____.

9 (k) The director of taxation may revoke or modify any
10 written decision qualifying, certifying, or otherwise granting
11 eligibility for tax credits under this section if it is
12 discovered that the taxpayer submitted any false statement,
13 representation, or certification in any application, record,
14 report, plan, or other document filed in an attempt to receive
15 tax credits under this section. The director shall immediately
16 notify the department of business, economic development, and
17 tourism of any revoked or modified orders affecting previously
18 granted tax credits. Additionally, the taxpayer shall notify
19 the department of business, economic development, and tourism of
20 any change in its tax credit claimed.

21 (l) A determination by the director of taxation that a
22 taxpayer received tax credits pursuant to this section to which



1 the taxpayer was not entitled is grounds for forfeiture of
2 previously claimed and received tax credits. The taxpayer is
3 responsible for returning forfeited tax credits to the director
4 of taxation, and the funds shall be deposited in the general
5 fund.

6 (m) A taxpayer that submits fraudulent information under
7 this section shall be liable to reimburse the reasonable costs
8 and fees associated with the review, processing, investigation,
9 and prosecution of the fraudulent claim. A taxpayer that
10 obtains a credit payment under this section through a claim that
11 is fraudulent shall be liable for reimbursement of the credit
12 amount plus a penalty in an amount double the credit amount;
13 provided that the penalty shall be in addition to any criminal
14 penalty to which the taxpayer is liable for the same acts.

15 (n) No later than December 31 of each year, the department
16 of business, economic development, and tourism shall provide a
17 report for the previous calendar year to the governor and the
18 legislature that outlines the return on investment and economic
19 benefits of the tax credits to the State. The report shall also
20 include an estimate of the full-time equivalent positions for
21 legal residents of this State and aggregate wages and salaries
22 paid for positions created by each production or project that



1 received tax credits under this section and information relating
2 to the distribution of productions receiving credits, by county
3 and by type of production.

4 [~~(k)~~] (o) Qualified productions shall comply with
5 subsections (d), (e), (f), and (h).

6 [~~(l)~~] (p) For the purposes of this section:

7 "Commercial":

8 (1) Means an advertising message that is filmed using
9 film, videotape, or digital media, for dissemination
10 via television broadcast or theatrical distribution;

11 (2) Includes a series of advertising messages if all parts
12 are produced at the same time over the course of six
13 consecutive weeks; and

14 (3) Does not include an advertising message with
15 Internet-only distribution.

16 "Digital media" means production methods and platforms
17 directly related to the creation of cinematic imagery and
18 interactive media content, specifically using digital means,
19 including but not limited to digital cameras, digital sound
20 equipment, and computers, to be delivered via film, videotape,
21 interactive game platform, internet, wireless, or other digital
22 distribution media [~~(excluding Internet only distribution)~~].



1 "Legal resident" shall have the same meaning as "resident"
2 in section 235-1.

3 "Post production" means production activities and services
4 conducted after principal photography is completed, including
5 but not limited to editing, film and video transfers,
6 duplication, transcoding, dubbing, subtitling, credits, closed
7 captioning, audio production, special effects (visual and
8 sound), graphics, and animation.

9 "Production" means a series of activities that are directly
10 related to the creation of visual and cinematic imagery to be
11 delivered via film, videotape, or digital media and to be sold,
12 distributed, or displayed as entertainment or the advertisement
13 of products for mass public consumption, including but not
14 limited to scripting, casting, set design and construction,
15 transportation, videography, photography, sound recording,
16 interactive game design, and post production.

17 "Production expenditures" means the expenditures incurred
18 by a qualified production within the State that are subject to
19 the general excise tax under chapter 237 or income tax under
20 this chapter and that have not been financed by any investments
21 for which a credit was or will be claimed pursuant to section
22 235-110.9, for tangible and intangible property used for, and



1 services performed primarily and customarily in, production,
2 including preproduction and post production, but excluding costs
3 for development, marketing, and distribution, including but not
4 limited to:

5 (1) Wages, salaries, or other compensation paid to legal
6 residents of this State, including amounts paid
7 through payroll service companies, for technical and
8 production crews, directors, producers, and
9 performers;

10 (2) Net expenditures for sound stages, backlots,
11 production editing, digital effects, sound recordings,
12 sets, and set construction;

13 (3) Net expenditures for rental equipment, including but
14 not limited to cameras and grip or electrical
15 equipment;

16 (4) Up to \$300,000 of the costs of newly purchased
17 computer software and hardware unique to the project,
18 including servers, data processing, and visualization
19 technologies, which are located in and used
20 exclusively in the State for the production of digital
21 media; and



1 (5) Expenditures for meals, travel, and accommodations.
2 For purposes of this definition, the term "net
3 expenditures" means the actual amount of money a
4 qualified production spent for equipment or other
5 tangible personal property, after subtracting any
6 consideration received for reselling or transferring
7 the item after the qualified production ends, if
8 applicable.

9 "Qualified digital media project" means development of
10 animation, graphics, visual effects, post production, and
11 interactive media for entertainment and education that is
12 produced for distribution in commercial or educational markets,
13 including but not limited to a video game or production intended
14 for game platform, physical media, internet or wireless
15 distribution.

16 "Qualified expenditures" means production expenditures
17 incurred in this State by a qualified production for:

18 (1) Goods purchased or leased or services, including but
19 not limited to insurance costs and bonding, payroll
20 services, and legal fees, that are provided by a
21 vendor or supplier in the State that is registered



1 with the State, has a physical location in the State,
2 and employs one or more legal residents of this State;

3 (2) Payments to legal residents of this State in the form
4 of salary, wages, or other compensation up to a
5 maximum of \$400,000 per resident; provided that a
6 completed declaration of legal residency in this State
7 shall accompany the documentation submitted to the
8 department for reimbursement; and

9 (3) Other direct production costs specified by the
10 department in consultation with the department of
11 business, economic development, and tourism.

12 "Qualified expenditures" do not include expenditures incurred
13 before certification, with the exception of those incurred for a
14 commercial, a music video, or the pickup of additional episodes
15 of a high-impact television series within a single season.

16 "Qualified independent and emerging media project" means a
17 qualified production of film, video, television, or interactive
18 entertainment that is produced for distribution in commercial or
19 educational markets, including but not limited to feature film,
20 short film, television show, television series, a video game or
21 production intended for game platform, physical media, internet,
22 or wireless distribution.



1 "Qualified production":

2 (1) Means a production, with expenditures in the State,
3 for the total or partial production of a feature-
4 length motion picture, short film, made-for-television
5 movie, commercial, music video, interactive game,
6 television series pilot, single season (up to
7 twenty-two episodes) of a television series regularly
8 filmed in the State (if the number of episodes per
9 single season exceeds twenty-two, additional episodes
10 for the same season shall constitute a separate
11 qualified production), television special, single
12 television episode that is not part of a television
13 series regularly filmed or based in the State,
14 national magazine show, or national talk show. For
15 the purposes of subsections (d) and (j), each of the
16 aforementioned qualified production categories shall
17 constitute separate, individual qualified
18 productions [7]. Notwithstanding the foregoing, for
19 purposes of satisfying the criteria of subsection (d),
20 a taxpayer shall claim as part of a qualified
21 production the creation of related content intended



1 for distribution over the Internet, wireless network,
2 or similar methods of distribution; and

3 (2) Does not include: daily news; public affairs
4 programs; non-national magazine or talk shows;
5 televised sporting events or activities; productions
6 that solicit funds; productions produced primarily for
7 industrial, corporate, institutional, or other private
8 purposes; and productions that include any material or
9 performance prohibited by chapter 712.

10 ~~["Qualified production costs" means the costs incurred by a~~
11 ~~qualified production within the State that are subject to the~~
12 ~~general excise tax under chapter 237 or income tax under this~~
13 ~~chapter and that have not been financed by any investments for~~
14 ~~which a credit was or will be claimed pursuant to section~~
15 ~~235-110.9. Qualified production costs include but are not~~
16 ~~limited to:~~

17 ~~(1) Costs incurred during preproduction such as location~~
18 ~~scouting and related services;~~

19 ~~(2) Costs of set construction and operations, purchases or~~
20 ~~rentals of wardrobe, props, accessories, food, office~~
21 ~~supplies, transportation, equipment, and related~~
22 ~~services;~~



- 1 ~~(3) Wages or salaries of cast, crew, and musicians;~~
2 ~~(4) Costs of photography, sound synchronization, lighting,~~
3 ~~and related services;~~
4 ~~(5) Costs of editing, visual effects, music, other post-~~
5 ~~production, and related services;~~
6 ~~(6) Rentals and fees for use of local facilities and~~
7 ~~locations;~~
8 ~~(7) Rentals of vehicles and lodging for cast and crew;~~
9 ~~(8) Airfare for flights to or from Hawaii, and interisland~~
10 ~~flights;~~
11 ~~(9) Insurance and bonding;~~
12 ~~(10) Shipping of equipment and supplies to or from Hawaii,~~
13 ~~and interisland shipments; and~~
14 ~~(11) Other direct production costs specified by the~~
15 ~~department in consultation with the department of~~
16 ~~business, economic development, and tourism.] "~~

PART IV

18 SECTION 7. The purpose of this part is to:

- 19 (1) Establish a motion picture, digital media, and film
20 production infrastructure tax credit for an
21 unspecified percentage of qualified infrastructure
22 costs;



1 (2) Require the expenditure of at least \$10,000,000 in
2 qualified infrastructure costs;

3 (3) Provide for one hundred per cent recapture of the tax
4 credit.

5 SECTION 8. Chapter 235, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§235- Motion picture, digital media, and film
9 production infrastructure income tax credit. (a) Any law to
10 the contrary notwithstanding, there shall be allowed to each
11 taxpayer subject to the taxes imposed by this chapter, an income
12 tax credit which shall be deductible from the taxpayer's net
13 income tax liability, if any, imposed by this chapter for the
14 taxable year in which the credit is properly claimed. The
15 amount of the credit shall be per cent of the qualified
16 infrastructure costs incurred by a qualified taxpayer in any
17 county of the State; provided that the tax credit claimed per
18 qualified infrastructure project shall not exceed \$.

19 In the case of a partnership, S corporation, estate, or
20 trust, the tax credit allowable is for qualified infrastructure
21 costs incurred by the entity for the taxable year. The cost
22 upon which the tax credit is computed shall be determined at the



1 entity level. Distribution and share of credit shall be
2 determined by rule.

3 (b) The credit allowed under this section shall be claimed
4 against the net income tax liability for the taxable year. For
5 the purposes of this section, "net income tax liability" means
6 net income tax liability reduced by all other credits allowed
7 under this chapter.

8 (c) If the tax credit under this section exceeds the
9 taxpayer's income tax liability, the excess of credits over
10 liability shall be refunded to the taxpayer; provided that no
11 refunds or payment on account of the tax credits allowed by this
12 section shall be made for amounts less than \$1. All claims,
13 including any amended claims, for tax credits under this section
14 shall be filed on or before the end of the twelfth month
15 following the close of the taxable year for which the credit may
16 be claimed. Failure to comply with the foregoing provision
17 shall constitute a waiver of the right to claim the credit.

18 (d) To qualify for this tax credit, a qualified
19 infrastructure project shall:

20 (1) Meet the definition of a qualified infrastructure
21 project specified in subsection (1);



1 (2) Have qualified infrastructure costs totaling at least
2 \$10,000,000; and

3 (3) Provide evidence that for the first two years of the
4 infrastructure project credit, at least sixty per
5 cent, and thereafter, at least seventy per cent, of
6 the positions are filled by legal residents of this
7 State, whose residency is demonstrated by a valid
8 Hawaii driver's license or other state-issued
9 identification confirming residency, or students
10 enrolled in a construction or related course of study
11 at an educational institution in the State.

12 (e) To receive the tax credit, the taxpayer shall first
13 prequalify the infrastructure project for the credit by
14 registering with the department of business, economic
15 development, and tourism during the development stage. Failure
16 to comply with this provision may constitute a waiver of the
17 right to claim the credit.

18 (f) If all or a portion of an infrastructure project is a
19 facility that may be used for other purposes unrelated to
20 production or post-production activities, then the project shall
21 be approved only if a determination is made that the multiple-



1 use facility will support and will be necessary to secure
2 production or post-production activity.

3 The taxpayer may also request a comfort ruling from the
4 department of taxation regarding the applicability of the tax
5 credit to a specific qualified infrastructure project.

6 (g) The director of taxation shall prepare forms as may be
7 necessary to claim a credit under this section. The director
8 may also require the taxpayer to furnish information to
9 ascertain the validity of the claim for credit made under this
10 section and may adopt rules necessary to effectuate the purposes
11 of this section pursuant to chapter 91.

12 (h) Every taxpayer claiming a tax credit under this
13 section for a qualified infrastructure project shall, no later
14 than ninety days following the end of each taxable year in which
15 qualified infrastructure costs were expended, submit a written,
16 sworn statement to the department of business, economic
17 development, and tourism, identifying:

18 (1) All qualified infrastructure costs, if any, incurred
19 in the previous taxable year;

20 (2) The amount of tax credits claimed pursuant to this
21 section, if any, in the previous taxable year; and



1 (3) An estimate of the full-time equivalent positions for
2 legal residents of this State created by each project,
3 by job category and by county.

4 (i) The department of business, economic development, and
5 tourism shall:

6 (1) Maintain records of the names of the taxpayers and
7 qualified infrastructure projects thereof claiming the
8 tax credits under subsection (a);

9 (2) Obtain and total the aggregate amounts of all
10 qualified infrastructure costs per qualified
11 infrastructure project per taxable year; and

12 (3) Provide a letter to the director of taxation
13 specifying the amount of the tax credit per qualified
14 infrastructure project for each taxable year that a
15 tax credit is claimed and the cumulative amount of the
16 tax credit for all years claimed.

17 (j) Upon each determination required under this
18 subsection, the department of business, economic development,
19 and tourism shall issue a letter to the taxpayer, regarding the
20 qualified infrastructure project, specifying the qualified
21 infrastructure costs and the tax credit amount qualified for in
22 each taxable year a tax credit is claimed. The taxpayer for



1 each qualified infrastructure project shall file the letter with
2 the taxpayer's tax return for the qualified infrastructure
3 project to the department of taxation. Notwithstanding the
4 authority of the department of business, economic development,
5 and tourism under this section, the director of taxation may
6 audit and adjust the tax credit amount to conform to the
7 information filed by the taxpayer.

8 (k) No later than December 31 of each year, the department
9 of business, economic development, and tourism shall provide a
10 report for the previous fiscal year to the governor and the
11 legislature that outlines the return on investment and economic
12 benefits of the tax credits to the State. The report shall also
13 include an estimate of the full-time equivalent positions for
14 legal residents of this State and aggregate wages and salaries
15 paid for positions created by each qualified infrastructure
16 project that received tax credits under this section and
17 information relating to the distribution of qualified
18 infrastructure projects receiving credits, by county and by type
19 of project.

20 (l) For the purposes of this section:

21 "Qualified infrastructure costs" means the total costs
22 incurred by a qualified infrastructure project within the State,



1 including the cost of purchasing or leasing real property, which
2 are subject to the general excise tax under chapter 237 or
3 income tax under this chapter and that have not been financed by
4 any investments for which a credit was or will be claimed
5 pursuant to section 235-110.9.

6 "Qualified infrastructure project" means a construction
7 project in the State, for the development, construction, or
8 renovation of a film, video, television, or media production or
9 post-production facility and the immovable property and
10 equipment related thereto, or any other facility that supports
11 and is a necessary component of such infrastructure project.

12 (m) For a qualified infrastructure project, the credit
13 claimed under this section shall be recaptured through an annual
14 payment from the taxpayer to the State equal to fifteen per cent
15 of the qualified infrastructure project's taxable income until
16 such time as the credit has been repaid; provided that if the
17 ownership of a qualified infrastructure project is transferred,
18 the transferee shall be obligated to the terms of the recapture
19 under this subsection.

20 (n) If at any time the infrastructure project ceases to be
21 a qualified infrastructure project, the credit claimed under
22 this section shall be recaptured. The amount of the recaptured



1 tax credit determined under this subsection shall be added to
2 the taxpayer's tax liability, up to one hundred per cent of the
3 tax credit, for the taxable year in which the recapture occurs
4 under this subsection. The taxpayer shall consent to a tax lien
5 in the amount of the tax credit claimed under this section on
6 the property as a condition to receiving the tax credit under
7 this section. If ownership of an infrastructure project is
8 transferred, the transferee shall be obligated to the terms of
9 the recapture under this subsection."

10 PART V

11 SECTION 9. Act 88, Session Laws of Hawaii 2006, is amended
12 by amending section 4 to read as follows:

13 "SECTION 4. This Act shall take effect on July 1, 2006;
14 provided that[+]

15 ~~(1) Section]~~ section 2 of this Act shall apply to
16 qualified [~~production costs~~] expenditures incurred on
17 or after July 1, 2006, and before January 1, [~~2016,~~
18 and

19 ~~(2) This Act shall be repealed on January 1, 2016, and~~
20 ~~section 235-17, Hawaii Revised Statutes, shall be~~
21 ~~reenacted in the form in which it read on the day~~
22 ~~before the effective date of this Act.] 2012."~~



1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect on July 1, 2050;
4 provided that:

5 (1) Section 6 of this Act shall apply to qualified
6 expenditures incurred on or after January 1, 2012, and
7 before January 1, 2027;

8 (2) Section 8 of this Act shall apply to taxable years
9 beginning after June 30, 2012, and before January 1,
10 2027; and

11 (3) This Act shall be repealed on January 1, 2027;
12 provided further that section 235-17, Hawaii Revised
13 Statutes, shall be reenacted in the form in which it
14 read on the day before the effective date of Act 88,
15 Session Laws of Hawaii 2006.



Report Title:

Taxation; Motion Picture, Digital Media, and Film Production Credit; Infrastructure Tax Credit

Description:

Establishes the Hawaii film and digital media special fund; repeals part IX, chapter 201, Hawaii Revised Statutes, relating to Hawaii television and film development (part II); amends the motion picture, digital media, and film production income tax credit to unspecified percentages; amends the total tax credit cap to an unspecified amount; requires annual report; increases requirements for hiring of legal residents of this State; applies to qualified expenditures incurred on or after January 1, 2012, and before January 1, 2027 (part III); establishes a motion picture, digital media, and film production infrastructure tax credit of fifty per cent of qualified infrastructure costs; requires qualified expenditure of at least \$10,000,000; increases requirements for hiring of legal residents of this State; requires the credit to be recaptured through an annual payment to the State equal to fifteen per cent of the qualified infrastructure project's taxable income until the credit has been repaid; provides for a 100 per cent recapture of the tax credit if the facilities are no longer used for a qualified activity; requires annual report; applies to taxable years beginning after June 30, 2012 (part IV); effective July 1, 2050; repeals on January 1, 2027. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

